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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

NOVELTY TEXTILES, INC., a
California corporation,

Plaintiff,

v.

PPLA CLOTHING LLC, a California
Limited Liability Company; CENTURY
21 DEPARTMENT STORES LLC, a
New York Limited Liability Company;
LORD & TAYLOR, LLC, a Delaware
Limited Liability Company; and DOES
1 through 10,

Defendants.

Case No.:

PLAINTIFF'S COMPLAINT FOR:

1. COPYRIGHT INFRINGEMENT;
2. VICARIOUS AND/OR
CONTRIBUTORY COPYRIGHT
INFRINGEMENT

Jury Trial Demanded

Plaintiff NOVELTY TEXTILE, INC. (hereinafter "NOVELTY") by and
through its undersigned attorneys, hereby prays to this honorable Court for relief
based on the following:

JURISDICTION AND VENUE

1 wrongful practices alleged herein. The true names, whether corporate, individual or
2 otherwise, of Defendants 1 through 10, inclusive, are presently unknown to Plaintiff,
3 which therefore sues said Defendants by such fictitious names, and will seek leave to
4 amend this Complaint to show their true names and capacities when same have been
5 ascertained.

6 9. Plaintiff is informed and believes and thereon alleges that at all times
7 relevant hereto each of the Defendants was the agent, affiliate, officer, director,
8 manager, principal, alter-ego, and/or employee of the remaining Defendants and was
9 at all times acting within the scope of such agency, affiliation, alter-ego relationship
10 and/or employment; and actively participated in or subsequently ratified and
11 adopted, or both, each and all of the acts or conduct alleged, with full knowledge of
12 all the facts and circumstances, including, but not limited to, full knowledge of each
13 and every violation of Plaintiff's rights and the damages to Plaintiff proximately
14 caused thereby.

15 **CLAIM RELATED TO DESIGN 2158**

16 10. Prior to the conduct complained of herein, Plaintiff composed an original
17 two-dimensional artwork for purposes of textile printing, which is set forth herein
18 below. It allocated this artwork Plaintiff's internal design number "2158"
19 (hereinafter "Subject Design"). This artwork was a creation of Plaintiff and/or
20 Plaintiff's design team, and is, and at all relevant times was, owned exclusively by
21 Plaintiff.

22 11. Plaintiff applied for and received a United States Copyright Registration
23 for Subject Design, the registration was granted Registration No. VA 1-799-521,
24 with an effective date of December 19, 2011.

25 12. Prior to the acts complained of herein, Plaintiff sampled and sold fabric
26 bearing Subject Design to numerous parties in the fashion and apparel industries.

1 13. Plaintiff is informed and believes and thereon alleges that, following this
2 distribution of fabric bearing Subject Design, PPLA, CENTURY, LORD, and
3 certain DOE Defendants created, sold, manufactured, caused to be manufactured,
4 imported and/or distributed fabric and/or garments comprised of fabric bearing an
5 unauthorized reproduction of Subject Design (“Infringing Product”). Such Infringing
6 Product includes but is not limited to garments sold to the public by:

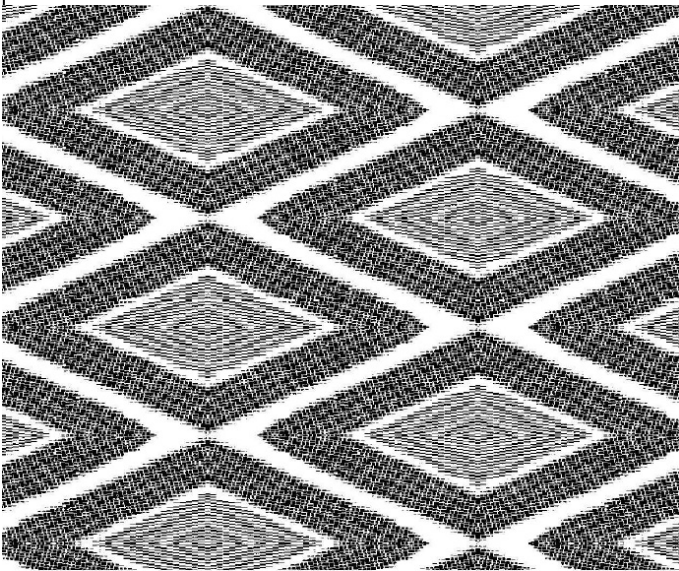
- 7 a. CENTURY under SKU or Item No. 2481-02550042481 and bearing
8 the label “PPLA” and RN 107376 indicating that it was manufactured
9 by or for PPLA;
10 b. LORD and bearing the label “PPLA” and RN 107376, indicating that
11 it was manufactured by or for PPLA.

12 14. Plaintiff is informed and believes and thereon alleges that Defendants, and
13 each of them, have committed copyright infringement with actual or constructive
14 knowledge of Plaintiff’s rights and/or in blatant disregard for Plaintiff’s rights, such
15 that said acts of copyright infringement were, and continue to be, willful, intentional
16 and malicious, subjecting Defendants, and each of them, to liability for statutory
17 damages under Section 504(c)(2) of the Copyright Act in the sum of up to one
18 hundred fifty thousand dollars (\$150,000) per infringement.

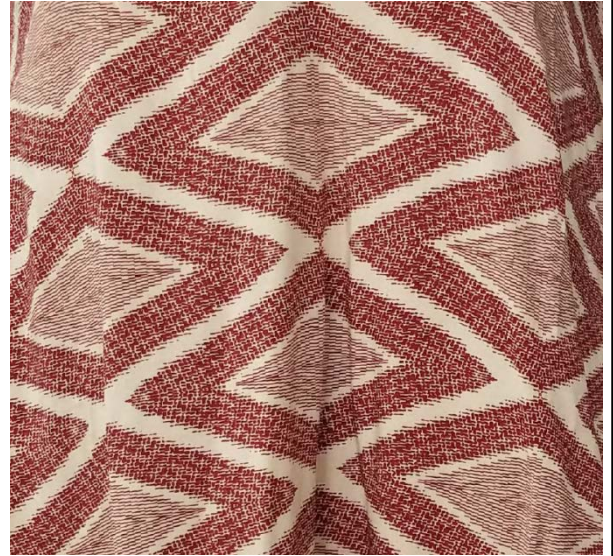
19 15. A comparison of Subject Design (left) and a non-exclusive exemplar of
20 Infringing Product (right) is set forth below; it is apparent that the elements,
21 composition, colors, arrangement, layout, and appearance of the designs are
22 substantially similar:

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Subject Design



Infringing Product



FIRST CLAIM FOR RELIEF

(For Copyright Infringement – Against All Defendants, and Each)

16. Plaintiff repeats, realleges, and incorporates herein by reference as though fully set forth, the allegations contained in the preceding paragraphs of this Complaint.

17. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them, had access to Subject Design, including, without limitation, through (a) access to Plaintiff's showroom and/or design library; (b) access to illegally distributed copies of the Subject Design by third-party vendors and/or DOE Defendants, including without limitation international and/or overseas converters and printing mills; (c) access to Plaintiff's strike-offs and samples, and (d) garments manufactured and sold to the public bearing fabric lawfully printed with the Subject Design by Plaintiff for its customers.

18. Plaintiff is informed and believes and thereon alleges that one or more of the Defendants manufactures garments and/or is a garment vendor. Plaintiff is

1 further informed and believes and thereon alleges that said Defendant(s) has an
2 ongoing business relationship with Defendant retailers, and each of them, and
3 supplied garments to said retailer, which garments infringed the Subject Design in
4 that said garments were composed of fabric which featured unauthorized print
5 design(s) that were identical or substantially similar to the Subject Design, or were
6 an illegal derivation or modification thereof.

7 19. Plaintiff is informed and believes and thereon alleges that Defendants, and
8 each of them, infringed Plaintiff's copyright by creating, making, and/or developing
9 directly infringing and/or derivative works from the Subject Design and by
10 producing, distributing and/or selling garments which infringe the Subject Design
11 through a nationwide network of retail stores, catalogues, and through on-line
12 websites.

13 20. Due to Defendants' acts of infringement, Plaintiff has suffered substantial
14 damages to its business in an amount to be established at trial.

15 21. Due to Defendants' acts of infringement, Plaintiff has suffered general and
16 special damages in an amount to be established at trial.

17 22. Due to Defendants' acts of copyright infringement as alleged herein,
18 Defendants, and each of them, have obtained direct and indirect profits they would
19 not otherwise have realized but for their infringement of the Subject Design. As
20 such, Plaintiff is entitled to disgorgement of Defendants' profits directly and
21 indirectly attributable to Defendants' infringement of the Subject Design in an
22 amount to be established at trial.

23 23. Plaintiff is informed and believes and thereon alleges that Defendants, and
24 each of them, have committed acts of copyright infringement, as alleged above,
25 which were willful, intentional and malicious, which further subjects Defendants,
26 and each of them, to liability for statutory damages under Section 504(c)(2) of the
27 Copyright Act in the sum of up to one hundred fifty thousand dollars (\$150,000) per
28

1 infringement. Within the time permitted by law, Plaintiff will make its election
2 between actual damages and statutory damages.

3 **SECOND CLAIM FOR RELIEF**

4 (For Vicarious and/or Contributory Copyright Infringement - Against All
5 Defendants)

6 24. Plaintiff repeats, realleges, and incorporates herein by reference as though
7 fully set forth, the allegations contained in the preceding paragraphs of this
8 Complaint.

9 25. Plaintiff is informed and believes and thereon alleges that Defendants
10 knowingly induced, participated in, aided and abetted in and profited from the illegal
11 reproduction and/or subsequent sales of garments featuring the Subject Design as
12 alleged herein.

13 26. Plaintiff is informed and believes and thereon alleges that Defendants, and
14 each of them, are vicariously liable for the infringement alleged herein because they
15 had the right and ability to supervise the infringing conduct and because they had a
16 direct financial interest in the infringing conduct.

17 27. By reason of the Defendants', and each of their, acts of contributory and
18 vicarious infringement as alleged above, Plaintiff has suffered and will continue to
19 suffer substantial damages to its business in an amount to be established at trial, as
20 well as additional general and special damages in an amount to be established at
21 trial.

22 28. Due to Defendants', and each of their, acts of copyright infringement as
23 alleged herein, Defendants, and each of them, have obtained direct and indirect
24 profits they would not otherwise have realized but for their infringement of the
25 Subject Design. As such, Plaintiff is entitled to disgorgement of Defendants' profits
26 directly and indirectly attributable to Defendants' infringement of the Subject
27 Design, in an amount to be established at trial.

1 29.Plaintiff is informed and believes and thereon alleges that Defendants, and
2 each of them, have committed acts of copyright infringement, as alleged above,
3 which were willful, intentional and malicious, which further subjects Defendants,
4 and each of them, to liability for statutory damages under Section 504(c)(2) of the
5 Copyright Act in the sum of up to one hundred fifty thousand dollars (\$150,000) per
6 infringement. Within the time permitted by law, Plaintiff will make its election
7 between actual damages and statutory damages.

8 **PRAYER FOR RELIEF**

9 Wherefore, Plaintiff prays for judgment as follows:

10 **Against All Defendants**

11 **With Respect to Each Claim for Relief**

- 12 a. That Defendants, their agents and employees be enjoined from
13 infringing Plaintiff's copyrights in any manner, specifically those for the
14 Subject Design;
- 15 b. That Plaintiff be awarded all profits of Defendants plus all losses of
16 Plaintiff, plus any other monetary advantage gained by the Defendants
17 through their infringement, the exact sum to be proven at the time of
18 trial, or, if elected before final judgment, statutory damages as available
19 under the Copyright Act, 17 U.S.C. §§ 101, *et seq.*;
- 20 c. That Plaintiff be awarded its attorneys' fees as available under the
21 Copyright Act U.S.C. § 101 *et seq.*;
- 22 d. That Plaintiff be awarded pre-judgment interest as allowed by law;
- 23 e. That Plaintiff be awarded the costs of this action; and
- 24 f. That Plaintiff be awarded such further legal and equitable relief as the
25 Court deems proper.

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1 A TRIAL BY JURY PURSUANT TO FED. R. CIV. P. 38 AND
2 CONSTITUTIONAL AMENDMENT SEVEN IS HEREBY DEMANDED.

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5 Dated: May 30, 2017

By: /s/ Scott A. Burroughs
Scott A. Burroughs, Esq.
Trevor W. Barrett, Esq.
DONIGER / BURROUGHS
Attorneys for Plaintiff
NOVELTY TEXTILE, INC.